

**Before the  
N.H. Occupational Therapy Governing Board  
Office of Allied Health Professionals  
Concord, New Hampshire 03301**

In the Matter of:  
**Martha J. Haley, OT**  
**License No. 0190**  
(Misconduct Allegations)

**SETTLEMENT AGREEMENT**

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of occupational therapy, the New Hampshire Board of Occupational Therapy ("Board") and Martha J. Haley, OT ("Respondent") agree to settle misconduct allegations now pending before the Board in accordance with the following terms and conditions:

1. The Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by occupational therapists who are its licensees pursuant to RSA 328-F:23, I, 328-F:24 and 328-F:25, I. The Board may dispose of any such allegations by settlement and without commencing or completing a disciplinary hearing pursuant to RSA 328-F:25, III and Ahp 205.02 (i).
2. The Board first granted Respondent a license to practice occupational therapy in the State of New Hampshire on December 1, 1980. Respondent holds license number 0190.
3. On January 28, 2014, the Board received information from Respondent that she had been unknowingly providing Physical Agent Modalities (PAM) over the last four and a half years without the required Board issued PAM certificate. This was followed up by a letter from Respondent's employer dated February 5, 2014.

4. In response to receipt of this information, the Board conducted an investigation.

5. The Board's investigation revealed and Respondent stipulates that if a disciplinary hearing were to take place, Hearing Counsel would present evidence sufficient to support a finding of professional misconduct in violation of RSA 328-F:23, II (j) by the following facts:

- A. Respondent has been licensed to practice occupational therapy in the State of New Hampshire since December 1, 1980.
- B. Respondent is employed at a rehabilitation center in Rochester, New Hampshire.
- C. On January 28, 2014, Respondent's employer discovered that she had been providing PAM to patients at the Rochester location without having the certificate from the Board authorizing her to do so. Respondent was immediately placed on suspension from her job duties and it was recommended that she contact the Board immediately.
- D. On January 28, 2014, after being informed of her lack of PAM certification, Respondent called the Board's office and self reported the issue that she had just been made aware of. Respondent was informed during the call that there is no documentation on file to indicate that she had ever been issued a New Hampshire certificate in PAM. After acknowledging that she had been practicing PAM since June of 2009, Respondent agreed to immediately cease practicing PAM.

- E. In a letter received by the Board on January 29, 2014, Respondent informed the Board that she had completed the requirements for PAM certification on May 26, 2009, and had received a PAM certificate from the PAM Practitioner Credentialing Agency on June 4, 2009. According to Respondent's letter, she sent the Board a copy of her PAM certificate dated June 4, 2009 when she renewed her license in December of 2009. Respondent maintains that she was not aware that there was a separate process for PAM certification in the State of New Hampshire.
6. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated Occ 305.02 (a) and RSA 328-C:8, I, which constitutes professional misconduct under RSA 328-F:23, II (j).
7. The Board finds that the Respondent did not act knowingly or intentionally in committing the above described acts of professional misconduct, rather, the Board finds that she acted negligently with respect to the same.
8. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against Respondent's license to practice as an occupational therapist in the State of New Hampshire.
9. Respondent consents to the following disciplinary action by the Board pursuant to RSA 328-F: 23, IV:
- A. Respondent is hereby REPRIMANDED;
- B. Respondent is assessed an ADMINISTRATIVE FINE in the amount of two hundred fifty dollars (\$250). Payment of the fine shall be made no later than thirty (30) days after the effective date of this *Settlement Agreement*.

Payment of the fine shall be in the form of a money order or bank check made payable to “Treasurer, State of New Hampshire” and delivered to the Board’s office at 2 Industrial Park Drive, Concord, New Hampshire 03301. *Once the fine is paid in full, the Board will issue a PAM certificate to Respondent.*

- C. Within ten (10) days of the effective date of this agreement, as defined further below, Respondent shall furnish a copy of this *Settlement Agreement* to any current employer for whom Respondent performs services as an occupational therapist or work which requires specialized training in occupational therapy or an occupational therapy license, or which directly or indirectly involves patient care and to any agency or authority which licenses, certifies or credentials occupational therapists with which Respondent is presently affiliated.
- D. For a continuing period of one (1) year from the effective date of this agreement, Respondent shall furnish a copy of this *Settlement Agreement* to any employer to which Respondent may apply for work as an occupational therapist or for work in any capacity which requires occupational therapy training, or license or directly or indirectly involves patient care and to any agency or authority that licenses, certifies or credentials occupational therapists to which Respondent may apply for any such professional privileges or recognition.

10. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute professional misconduct pursuant to RSA 328-F: 23, II and a separate and sufficient basis for further disciplinary action.

11. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider this misconduct as evidence in the event that similar misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.

12. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.

13. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to her other than those terms and conditions expressly stated herein.

14. The Board agrees that in return for Respondent executing this agreement, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.

15. Respondent understands that her action in entering into this agreement is a final act and not subject to reconsideration or judicial review or appeal.

16. Respondent has sought and obtained the advice of an attorney in connection with her decision to enter into this agreement.

17. Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion of it, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claim that any disclosures made to the Board for its review of this *Settlement Agreement*, and any guidance or explanations provided to the parties by the Board resulting from that review, has prejudiced her right to a fair and impartial hearing, in the event this *Settlement Agreement* is not accepted by the Board and no other *Settlement Agreement* is presented to the Board thereafter.

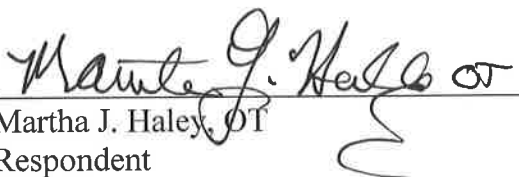
18. Respondent is not under the influence of any drugs or alcohol at the time she signs this *Settlement Agreement*.

19. Respondent certifies that she has read this document entitled *Settlement Agreement*. Respondent understands that she has the right to a formal adjudicatory hearing concerning the matters stated herein and that at said hearing she would possess the rights to confront and cross examine witnesses, to call witnesses, to present evidence, to testify on her own behalf, to contest the allegations to present oral argument and to appeal to the courts. Further, Respondent fully understands the nature, qualities and dimensions of these rights. Respondent understands that by signing this agreement she waives these rights as they pertain to the misconduct described herein.

20. This *Settlement Agreement* shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.


**FOR THE RESPONDENT**

Date: 4-10-14

  
Martha J. Haley, OT  
Respondent

WITNESS:

Date: 4/10/14

  
Matthew Broadhead, Esq.  
Counsel for Respondent

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

**FOR THE BOARD\***

Date: 4/21/14

  
(Signature)

Wendi Gillette  
(Print or Type Name)  
Authorized Representative of the  
New Hampshire Occupational  
Therapy Governing Board

\* Board Member(s), recused:

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